



May 5, 2005

RECEIVED

MAY - 5 2005

Federal Communications Commission
Office of Secretary

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Request for Approval of Withdrawal of
Gateway Radio Works, Inc.
MB Docket No. 04-411
RM-11096**

Dear Ms. Dortch:

Transmitted herewith on behalf of Gateway Radio Works, Inc., are an original and four (4) copies of its Request for Approval of Withdrawal submitted in connection with the above-referenced proceeding.

Should any questions arise in connection with this matter, kindly communicate directly with the undersigned.

Respectfully submitted,

Michael H. Shacter

Enclosure

No. of Copies made
List Attached

044

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

MAY - 5 2005

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 04-411
Table of Allotments,) RM-11096
FM Broadcast Stations.)
(Georgetown, Mason, Oxford and West)
Union, Ohio, and Salt Lick, Kentucky))

To: Office of Secretary
Attn: Assistant Chief, Audio Division
Media Bureau

REQUEST FOR APPROVAL OF WITHDRAWAL

1. Gateway Radio Works, Inc. ("Gateway"), the licensee of WIVY(FM), Channel 242A, Morehead, KY (FCC Facility ID No. 23344), by its attorneys, hereby requests approval to withdraw its pending Reply Comments and Counterproposal in the above-referenced rule making proceeding. In its counterproposal, Gateway proposed to (i) allot Channel 249A at Livingston, Kentucky, and (ii) reallocate Channel 242A from Morehead to Salt Lick, Kentucky. Gateway also expressed an interest in applying for Channel 249A at Livingston, Kentucky and Channel 242A at Salt Lick, Kentucky, and constructing the facilities if its applications are granted. However, Gateway now desires to withdraw its counterproposal and expressions of interest.

2. In connection with its withdrawal, Gateway has entered into an Option Agreement with First Broadcasting Capital Partners, LLC ("First Broadcasting") to acquire radio station WAXZ-FM, Georgetown, Ohio. In connection with the Option Agreement, First Broadcasting agreed to reimburse Gateway for its legitimate and prudent expenses incurred in connection with this proceeding. In lieu of paying the reimbursement amount directly to Gateway, First Broadcasting

applied the payment as consideration for the option granted under the Option Agreement. A copy of the Option Agreement accompanies this Request for Approval of Withdrawal as Exhibit A.

3. An affidavit pursuant to Section 1.420(j) of the Commission's Rules regarding Gateway's withdrawal accompanies this Request for Approval of Withdrawal as Exhibit B.

Respectfully submitted,

Gateway Radio Works, Inc.

May 5, 2005

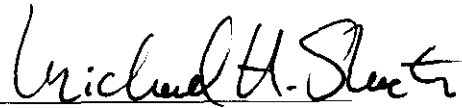
By: 
John F. Garziglia, Esq.
Michael H. Shacter, Esq.
Its Attorneys
Womble Carlyle Sandridge & Rice, PLLC
1401 Eye Street, Seventh Floor
Washington, D.C. 20005
202/467-6900

EXHIBIT A

.

OPTION AGREEMENT

This Option Agreement, dated as of the 13th day of April, 2005 (this "**Agreement**"), is entered into by and among First Broadcasting Capital Partners, LLC ("**First Broadcasting**"), and Gateway Radio Works, Inc ("**Gateway**").

PRELIMINARY STATEMENTS

A. First Broadcasting owns Radio Station WAXZ-FM, currently licensed to Georgetown, Ohio (the "**Station**"). The Station is part of RM-11096; MB Docket No. 04-411 (the "**Rule Making**") filed with the Federal Communications Commission ("**FCC**"), whereby the Station would be moved and its city of license would become Salt Lick, Kentucky.

B. Gateway has filed comments (the "**Gateway Comments**") and a counterproposal (the "**Counterproposal**") in the Rule Making.

C. First Broadcasting desires to grant to Gateway an option to purchase certain of the assets ("**Broadcasting Assets**") related to the Station, and assign to Gateway all licenses related thereto ("**Licenses**"), under the terms and conditions provided for herein.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, agreements, and conditions hereafter set forth, and for other good, valuable and binding consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

STATEMENT OF AGREEMENT

1. **Option to Acquire Broadcasting Assets.** Gateway shall have the option (the "**Option**") to purchase the Broadcasting Assets and take assignment of the Licenses beginning on the date of execution of this Agreement, and terminating upon the automatic exercise of the Option or otherwise as provided herein (the "**Option Period**"). During the Option Period, Gateway shall have the right to exercise its option to purchase the Broadcasting Assets and take assignment of the Licenses. If the Rule Making is dismissed or denied, and such dismissal or denial becomes final, then this Option shall expire, terminate and no longer be of any force and effect; *provided, however*, that if any other rule making (a "**Parallel Rule Making**") to move the Station to a community within a thirty (30) mile radius of Morehead, KY is proposed to the FCC on or before April 13, 2007 [two years from the execution date], then this Option shall automatically be extended until the date that such Parallel Rule Making is dismissed or denied and such dismissal or denial becomes final.

1.1. **Option Exercise.** The Option shall be automatically exercised, with no action on the part of Gateway or First Broadcasting, on the date that the Rule Making, or any Parallel Rule Making, is granted by the FCC and such grant becomes final. If not

automatically exercised, Gateway may exercise the Option by giving written notice to First Broadcasting prior to the expiration of the Option Period or any extension thereof ("**Option Exercise Notice**").

1.2. *Option Consideration.* In consideration of Gateway's agreement to withdraw the Gateway Comments and to dismiss the Counterproposal from the Rule Making, First Broadcasting agrees to reimburse Gateway for its legitimate and prudent expenses incurred in connection therewith, as itemized in Exhibit A hereto (the "**Reimbursement Amount**"). In lieu of paying the reimbursement amount directly to Gateway, First Broadcasting shall apply such payment as consideration for the Option.

1.3. *Purchase Price.* The purchase price for the Station upon exercise of the Option shall be Sixty Thousand Two Hundred Ninety Four Dollars (\$60,294.00) (the "**Purchase Price**"). The parties agree that the Purchase Price represents the fair market value for an unbuilt station in Salt Lick, KY, based on an evaluation of comparable values of operating stations in communities similar to Salt Lick, after allowing for the cost of construction. Gateway shall have the right, without further obligation to First Broadcasting, to terminate this Agreement at any time prior to the automatic exercise of the Option, provided that certain obligations shall survive such termination as set forth in Section 7.11.

1.4. *Documentation.* Within thirty (30) days after delivery of the Option Exercise Notice, the parties shall negotiate in good faith to draft, execute and deliver a purchase agreement to effect the sale of the Broadcasting Assets and transfer of the Licenses (the "**Purchase Agreement**"), containing mutually agreeable terms and conditions, and shall use their reasonable best efforts to close such transaction as promptly as practicable thereafter. The Purchase Agreement shall contain such additional terms and conditions as are customarily found in similar agreements and shall provide, among other things: (i) for the payment by Gateway to First Broadcasting of the Purchase Price, such payment to be made in cash by wire transfer of immediately available funds payable to the bank account or accounts designated in writing by First Broadcasting upon Closing; (ii) that the Broadcasting Assets shall include the Station's public file and similar books and records of the Station; (iii) for assignment of the Licenses to Gateway; (iv) that subject to the approval of Gateway, which shall not be unreasonably withheld, conditioned, or delayed, First Broadcasting will file for the construction permit as contemplated by Section 2.4; (v) that the Broadcasting Assets and Licenses be delivered free and clear of debts, liens and encumbrances of any kind whatsoever, other than those relating to property taxes and similar items that are accrued, but not yet payable; (vi) that Gateway will not assume any obligations of any kind or character whatsoever related to the operation of Station or the Broadcasting Assets by First Broadcasting prior to the closing of the sale, except those expressly agreed to by Gateway; (vii) that real property (owned or leased), equipment, contracts, cash, cash equivalents, accounts receivable, First Broadcasting's business records, customer lists, customer contracts, programming format, all intellectual property and software will be excluded from the sale; (viii) the right to demand specific performance on the part of the parties; and (ix) that the

consummation of the sale be subject to the receipt of all necessary government and third party approvals.

1.5. *Transfer Restrictions.* From the date hereof until the termination of the Option Period, First Broadcasting shall not transfer or assign the Licenses or any material portion of the Broadcasting Assets (other than transfers or assignments to affiliates of First Broadcasting who agree in writing to be bound to the terms of this Agreement). Nothing herein shall be deemed to prohibit the incurrence, continuance or refinancing of liens against the Broadcasting Assets provided all such liens are removed prior to or upon the closing contemplated by the Purchase Agreement.

1.6. *Option Expiration.* If the Option is not exercised before the end of the Option Period, then Gateway shall have no further rights, and First Broadcasting shall have no further obligations, under this Agreement and this Agreement shall immediately terminate, without action of the parties, and be of no further force and effect.

2. FCC Filings.

2.1. *Dismissal.* Contemporaneously with execution of this Agreement, Gateway shall file with the Commission a request to withdraw the Gateway Comments and dismiss the Counterproposal. In connection therewith, the parties shall file a copy of this Agreement and the affidavit contemplated by Section 1.420 of the Commission's rules.

2.2. *Interim Filings.* In addition, First Broadcasting shall have the right to make any interim filings and/or prosecute any and all proposals with the FCC related to the Station at its discretion and Gateway will neither interpose any objection to such proposal nor participate in or facilitate any such objection.

2.3. *Copies of Filings.* Following Gateway's withdrawal from the Rule Making, First Broadcasting will furnish Gateway with copies of all comments, orders, and any other documents, filed by any participant in the proceeding or issued by the FCC.

2.4. *Construction Permit.* Whether the Option has been exercised or not, the parties agree that First Broadcasting will file for the construction permit (the "**Construction Permit**") to build out the Station in Salt Lick, KY pursuant to the report and order issued in the Rule Making promptly after such report and order is issued, subject to the approval of Gateway, which approval will not be unreasonably withheld, conditioned, or delayed, and using technical specifications, including transmitter coordinates, antenna height, and ERP, which shall be furnished by Gateway, consistent with the requirements of the Rule Making report and order.

2.5. *Build Out.*

(a) Promptly after the order in the Rule Making and the grant of the Construction Permit both become final (and the Option is automatically exercised as set

forth herein), the parties will work diligently and in good faith to execute the Purchase Agreement and file an application with the FCC for the transfer of the Station license. Promptly after the filing of such an application, Gateway will use its commercially reasonable efforts to diligently commence and complete the build out the Station in Salt Lick, KY.

(b) If the grant of the Rule Making does not become final in the normal course, then First Broadcasting may elect to construct the facilities at any time following the grant of the Construction Permit provided that Gateway has not yet exercised the Option. All such construction shall be performed with Gateway's advice and consent, and Gateway shall reimburse First Broadcasting for the reasonable and documented costs of such construction at the Closing under the Purchase Agreement.

3. Representations and Warranties of Gateway. First Broadcasting hereby represents and warrants to Gateway as follows:

3.1. *Organization and Standing; Power and Authority; Informed Decision.* First Broadcasting is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. First Broadcasting has the power and authority to own the Broadcasting Assets and hold the Licenses, as applicable, and to enter into and perform the terms of this Agreement and of the documents and instruments called for herein and to consummate the transactions contemplated hereby. First Broadcasting is knowledgeable in matters relating to the purchase, sale and operation of radio stations, and has had an opportunity to consult with counsel regarding the transactions contemplated hereby.

3.2. *Authorization; Binding Obligation; Consent.* The execution, delivery and performance by First Broadcasting of this Agreement and of the documents and instruments called for herein, and the consummation of the transactions contemplated hereby, have been duly and validly authorized by First Broadcasting. This Agreement constitutes a valid and binding agreement and an obligation of First Broadcasting enforceable in accordance with its terms. The agreements and instruments called for hereunder will not require the consent, approval and authorization of any person, entity or governmental authority other than the FCC.

3.3. *No Contravention.* The execution, delivery and performance of this Agreement does not and will not, after the giving of notice or the lapse of time or otherwise: (i) conflict with or violate any provision of the charter, certificate of formation, operating agreement, bylaws or similar organizational document of First Broadcasting, (ii) result in the breach of, constitute a default under, conflict with or result in the termination or alteration of the provisions of any agreement or other instrument to which First Broadcasting is a party or by which the property of First Broadcasting is bound, or result in the creation of any encumbrance upon any of the Broadcasting Assets, and/or the Licenses, or (iii) violate or conflict with any material laws, regulations, orders, writs, injunctions, decrees or judgments, including the FCC Communications Act,

applicable to either First Broadcasting, or any of the Broadcasting Assets, or the Licenses.

3.4. *Licenses.* The Licenses are valid and in full force and effect. First Broadcasting is not aware of any investigation, notice of investigation, violation, order, complaint, action or other proceeding pending or, to the knowledge of First Broadcasting, threatened before the FCC or any other governmental authority to vacate, revoke, refuse to renew or modify such Licenses. No event has occurred which permits or after notice or lapse of time would permit, the revocation or termination of the Licenses other than FCC proceedings concerned with the broadcast industry generally.

4. Representations and Warranties of Gateway. Gateway hereby represents and warrants to First Broadcasting as follows:

4.1. *Organization and Standing; Power and Authority.* Gateway is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and is qualified to do business therein. Gateway has the full power and authority to own, lease and operate its assets, to carry on its business as currently conducted, and to enter into and perform the terms of this Agreement and of the documents and instruments called for herein and to consummate the transactions contemplated hereby and thereby. Gateway is knowledgeable in matters relating to the purchase, sale and operation of radio stations, and has had an opportunity to consult with counsel regarding the transactions contemplated hereby.

4.2. *Authorization; Binding Obligation; Consents.* The execution, delivery and performance by Gateway of this Agreement and of the documents and instruments called for herein, and the consummation of the transactions contemplated hereby, have been duly and validly authorized by all necessary corporate action on the part of Gateway. This Agreement constitutes a valid and binding agreement and obligation of Gateway enforceable in accordance with its terms. The execution, delivery and performance by Gateway of this Agreement and the agreements and instruments called for hereunder will not require the consent, approval or authorization of any person, entity or governmental authority other than the FCC.

4.3. *No Contravention.* The execution, delivery and performance of this Agreement do not and will not, after the giving of notice or the lapse of time or otherwise: (i) conflict with or violate any provisions of the certificate of incorporation or bylaws of Gateway, (ii) result in the breach of, constitute a default under, conflict with or result in the termination or alteration of, the provisions of any agreement or other instrument to which Gateway is a party or by which the property of Gateway is bound, or (iii) violate or conflict with any material laws, regulations, order, writs, injunctions, decrees or judgments, including the FCC Communications Act, applicable to Gateway.

5. Covenants.

5.1. *Specific Performance.* In the event of breach by a party of its obligations under this Agreement, the other party shall have the right to seek injunctive relief and/or specific performance. Such right is cumulative and not alternative to the right of such party to seek damages at law. Each party agrees that it will not intentionally take any action that could reasonably be expected to delay or prohibit any FCC proceeding or filing related to the Station, or disqualify or prohibit either party from taking any action permitted under this Agreement.

5.2. *Station Operations.* Without the consent of Gateway, First Broadcasting shall not cause or permit, by any act or failure to act, the Licenses to expire or to be surrendered, or take any action which would cause the Commission or any other governmental authority to institute proceedings for the suspension, revocation or modification of any of the Licenses.

6. **Confidentiality.** The parties may disclose to each other certain business information, technical information, business strategies, formulae, notes, analyses, compilations, studies, interpretations, ideas or any other confidential or proprietary information (the "**Proprietary Information**") during the course of their performance of this Agreement. In that regard, the parties hereby agree as follows:

6.1. *Non-Disclosure.* Each party will hold in confidence any Proprietary Information, except information: (i) which at the time of its disclosure is in the public domain or otherwise generally available to the public; (ii) after its disclosure is published or otherwise becomes generally available to the public or part of the public domain without violation of the terms of this Agreement (but only after, and only to the extent that, it is published or otherwise has become part of the public domain); (iii) is already known by such party or is or after the date hereof becomes lawfully available to such party from any third party which the party reasonably believes is not then under any contractual, legal or fiduciary obligation of non-disclosure; or (iv) which is required to be disclosed pursuant to any applicable law or an order of a court or governmental authority. Notwithstanding the foregoing, each party may disclose Proprietary Information it receives to its Representatives of or to such party; provided that such party instructs each of its Representatives to handle such information in accordance with this Section 6.

6.2. *Press Releases.* Each party agrees that it shall not release any proposed press release or communication to the general public regarding this Agreement without the other party's consent and approval prior to its dissemination.

6.3. *No Tax Shelter.* Notwithstanding anything to the contrary set forth herein or in any other agreement to which the parties hereto are parties or by which they are bound, the obligations of confidentiality contained herein and therein, as they relate to the transactions contemplated in this Agreement, shall not apply to the tax structure or tax treatment of such transactions, and each party hereto (and any employee, representative or agent of any party hereto) may disclose to any and all persons, without limitation of

any kind, the tax structure and tax treatment of such transactions. The preceding sentence is intended to cause such transactions not to be treated as having been offered under conditions of confidentiality for purposes of Section 1.6011-4(b)(3) (or any successor provision) of the Treasury Regulations promulgated under Section 6011 of the Internal Revenue Code of 1986, as amended, and shall be construed in a manner consistent with such purpose. In addition, each party hereto acknowledges that it has no proprietary or exclusive rights to the tax structure of such transactions or any tax matter or tax idea related to such transactions.

7. Miscellaneous.

7.1. *Additional Actions and Documents.* Each of the parties hereto hereby agrees to use commercially reasonable efforts to take or cause to be taken such further actions to execute, deliver and file such further documents and instruments, and to obtain such consents as may be necessary in order to fully effectuate the purposes, terms and conditions of this Agreement.

7.2. *Notice of Proceedings.* Either party, as the case may be, will promptly, and in any event within five (5) business days, notify the other in writing upon becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the consummation of this Agreement or the transactions contemplated hereunder, or upon receiving any notice from any governmental department, court, agency or commission of its intention to institute an investigation into, or institute a suit or proceeding to restrain or enjoin the consummation of the Agreement or such transactions contemplated hereby, or to nullify or render ineffective this Agreement.

7.3. *Notices.* All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be in writing and shall be sent by Federal Express or similar recognized overnight courier service, with all charges prepaid, and shall be deemed to have been duly delivered and received on the date of receipt (as shown on the delivery confirmation). Notice may also be sent by facsimile, provided that such facsimile notice is followed up by notice by overnight courier service as provided in the preceding sentence, in which case notice shall be deemed to have been duly delivered and received on the later of (a) the date of receipt of facsimile confirmation or (b) the date preceding courier delivery receipt. All such notices, demands, and requests shall be addressed as follows:

If to First Broadcasting: First Broadcasting Capital Partners, LLC
750 North St. Paul Street
Suite 1000
Dallas, Texas 75201
Attn: Hal A. Rose
Fax: 214-855-5145

with a copy to: Mark N. Lipp, Esq.
Vinson & Elkins, LLP
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Fax: (202) 639-6604

If to Gateway: Gateway Radio Works, Inc.
WMST Radio
22 West Main Street
Mount Sterling, KY 40353
Attn: Hays McMakin
Fax: _____

with a copy to: John F. Garziglia, Esq.
Michael H. Shacter, Esq.
Womble Carlyle Sandridge & Rice, PLLC
1401 Eye Street, NW
Washington, DC 20005
Fax: (202) 261-0055

or at such other address as either party shall specify by notice to the other.

7.4. *Headings and Entire Agreement.* The section and subsection headings do not constitute any part of this Agreement and are inserted herein for convenience of reference only. This Agreement embodies the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written agreements, understandings, representations and warranties, and courses of conduct and dealing between the parties on the subject matter hereof. This Agreement may not be amended, modified or changed, or any provision hereof waived, orally, but only in writing signed by the party against whom enforcement of any amendment, modification, change or waiver is sought.

7.5. *Waiver.* No waiver of a breach of, or default under, any provision of this Agreement shall be deemed a waiver of such provision or of any subsequent breach or default of the same or similar nature or of any other provision or condition of this Agreement.

7.6. *Binding Effect and Assignment.* This Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of the parties.

Neither party shall assign this Agreement without the written consent of the other party, which consent will not be unreasonably withheld or delayed. Notwithstanding the foregoing, (i) First Broadcasting and its permitted assignees may assign this Agreement to any affiliate of First Broadcasting upon notice to, but without the consent of, Gateway; provided, however, that any such assignment shall not relieve First Broadcasting or any permitted assignee of its obligations under this Agreement; and (ii) Gateway may assign this Agreement to the FCC approved purchaser of WIVY(FM), Morehead, KY, provided that it causes the assignee to assume Gateway's obligations under this Agreement in a manner reasonably satisfactory to First Broadcasting.

7.7. *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one agreement.

7.8. *Governing Law.* This Agreement, and the rights and obligations of the parties hereunder, shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be performed therein without regard to conflicts of laws principles.

7.9. *Severability.* If any provision of this Agreement or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision that can be given effect without the invalid provision or application, and to this end the provisions hereof shall be severable. Any such invalid provision shall be given effect to the extent possible or shall be reformed so as to make it enforceable and valid while preserving the original intent of the parties.

7.10. *Third Party Rights.* Neither party assumes any duty hereunder to any other person or entity, and this Agreement shall operate exclusively for the benefit of the parties hereto and their respective affiliates and not for the benefit of any other person or entity.

7.11. *Survival.* The provisions of Section 2.2, Section 6 and this Section 7.11 shall remain in full force and effect indefinitely notwithstanding the termination of this Agreement or the otherwise full performance by the parties of the transactions contemplated hereby.

7.12. *Expenses.* Except as expressly provided herein, each party will be responsible for and bear all of its own costs and expenses incurred at any time in connection with pursuing or consummating the transactions contemplated by this Agreement.

7.13. *Alternative Dispute Resolution.* If the parties are unable to resolve any dispute arising under or relating to this Agreement, they hereby agree to submit such dispute to arbitration as promptly as practicable. Any disputes arising from or related to this Agreement will be submitted for arbitration in accordance with the Expedited Rules of the Commercial Arbitration Rules of the American Arbitration Association ("AAA").

The parties shall first attempt to mutually agree upon a single impartial third-party arbitrator, but if such agreement cannot be reached within three (3) business days from a party's request for arbitration, then the single third-party arbitrator shall be appointed by the AAA. The parties hereby agree that any such arbitration shall be final and binding upon each of them, and that any judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties further agree that the losing party to any such arbitration shall be responsible for the reasonable attorneys' fees and expenses of the prevailing party.

7.14. *FCC Matters* . The parties recognize that the transactions contemplated by this Agreement may occur over a substantial period of time and that FCC rules, regulations and policies governing ownership attribution and media ownership may be subject to change during such period. Accordingly, the parties hereby agree to cooperate in good faith and use their commercially reasonable efforts to take such actions as are reasonably necessary to permit either party to receive, to the extent possible, the benefits contained herein in compliance with the rules, regulations and policies of the FCC governing ownership attribution and media ownership as they may exist and be in effect from time to time.

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed and delivered in its name and on its behalf, all as of the date and year first written above.

**FIRST BROADCASTING CAPITAL
PARTNERS, LLC**

By: 

Hal A. Rose
Senior Vice President

GATEWAY RADIO WORKS, INC.

By: 

Hays McMakin
President

EXHIBIT B

CERTIFICATION OF GATEWAY RADIO WORKS, INC.

The undersigned, Hays McMakin, president of Gateway Radio Works, Inc. ("Gateway"), hereby states as follows in connection with Gateway's withdrawal of its Reply Comments and Counterproposal in MB Docket No. 04-411 (the "Proceeding"):

1. Neither Gateway nor any of its principals, agents, or representatives have been paid or promised any payment or other consideration in excess of its legitimate and prudent expenses in exchange for the dismissal or withdrawal of its Reply Comments and Counterproposal in the Proceeding.

2. As described in its Request for Approval of Withdrawal, Gateway has entered into an Option Agreement with First Broadcasting Capital Partners, LLC ("First Broadcasting") to acquire radio station WAXZ-FM, Georgetown, Ohio. In connection with the Option Agreement, First Broadcasting agreed to reimburse Gateway for its legitimate and prudent expenses incurred in connection with the Proceeding. In lieu of paying the reimbursement amount directly to Gateway, First Broadcasting applied the payment as consideration for the option granted under the Option Agreement.

3. Gateway incurred, and is being reimbursed for, the following expenses:

Legal fees:	\$16,728.18
Engineering fees:	\$1,500.00
Total:	\$18,228.18

4. There are no oral agreements related to Gateway's dismissal or withdrawal of expression of interest.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Executed on this 4 day of May, 2005.



Hays McMakin, President
Gateway Radio Works, Inc.

CERTIFICATE OF SERVICE

I, Michael H. Shacter, do hereby certify that true copies of the foregoing "Request for Approval of Withdrawal" were sent this 5th day of May, 2005 by U.S. first class mail, postage prepaid, to the following:

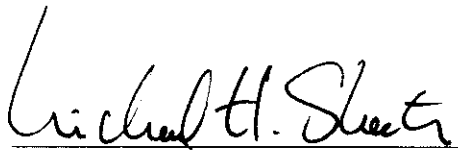
Rolanda F. Smith*
Media Bureau
Federal Communications Commission
445-12th Street, S.W.
Washington, D.C. 20554

Mark N. Lipp
Scott Woodworth
Vinson & Elkins, LLP
The Willard Office Building
1455 Pennsylvania Ave., NW
Suite 600
Washington, DC 20004-1008
(Counsel for First Broadcasting Capital Partners, LLC)

Coe W. Ramsey
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
PO Box 1800
Raleigh, NC 27602
(Counsel for Dreamcatcher Communications, Inc.)

Edward S. O'Neill
Lee G. Petro
Fletcher Heald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209
(Counsel for South Central Communications Corporation)

Bradlee J. Beer
4414 Castle Gate Drive
Dayton, OH 45432-1814


Michael H. Shacter

* By hand delivery